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August 13, 1998

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FEDERAL COMMUNICATIONS COMMISSION
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BY HAND DELIVERY

Magalie Roman Salas, Esq.
Secretary
Federal Communications Commission
1919 M Street, N.W., Room 222
Washington, D.C. 20554

Re: Comments of Primus Telecommunications, Inc. in Support of Proposed Rule Changes; IB Docket No. 98-118

Dear Secretary Salas:

Transmitted herewith on behalf of Primus Telecommunications, Inc. please find an original plus five (5) copies of the "COMMENTS OF PRIMUS TELECOMMUNICATIONS, INC. IN SUPPORT OF PROPOSED RULE CHANGES" to be filed in the above-referenced proceeding.

Please date-stamp the enclosed extra copy of this filing and return it with the messenger to acknowledge receipt by the Commission.

If you have any questions regarding this submission, please do not hesitate to contact me.

Very truly yours,

Catherine Wang
Counsel for Primus Telecommunications, Inc.

Enclosures

cc: Paul Singh
Robert Stankey
Andrew Lipman

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Before the
FEDERAL COMMUNICATIONS COMMISSION
Washington, D.C. 20554

In the Matter of	)	
	)	
1998 Biennial Review -	)	**IB Docket No. 98-118**
Review of International Common Carrier	)	
Regulations	)	
	)	

COMMENTS OF PRIMUS TELECOMMUNICATIONS, INC. IN SUPPORT OF PROPOSED RULE CHANGES

Primus Telecommunications, Inc. ("PTI"), by its undersigned counsel, pursuant to Section 1.415 of the Commission's Rules, 47 C.F.R. § 1.415 (1997), herein submits these comments in support of the proposals to streamline and simplify the international Section 214 requirements made in the above-captioned proceeding. PTI applauds the Commission efforts in this and other proceedings to adjust its international service regulation to more closely reflect the changing dynamics of the international market place. As a part of that effort, PTI strongly supports eliminating unnecessary, burdensome and outdated regulation which no longer serves any useful regulatory purpose and now merely stands in the way of greater international service competition.

PTI is a competitive carrier that offers high quality facilities-based and resold international and U.S. domestic service. PTI holds several Section 214 authorities, including global facilities-based and resale authority, from the Commission. In an effort to keep pace with soaring demand for high quality international services, PTI has expanded the geographic scope of its services to Australia, the United Kingdom, Japan, Canada, Germany, France, the Caribbean, Central America and South America. In some countries, PTI maintains foreign operations, holds licenses and/or has entered into agreements with foreign carriers to support its global services and network. PTI is thus directly interested in proposals to encourage more timely market entry and service expansion, as well as proposals to eliminate unnecessary barriers and delays to financing, corporate restructuring, and acquisitions. With that in mind, PTI would like to share its view, based on its real-world experience, of how and why certain aspects of existing Section 214 regulation should be modified.

I. BLANKET SECTION 214 LICENSING SHOULD BE ADOPTED

The Commission should adopt its proposal to establish a blanket Section 214 licensing scheme by which applicants seeking to provide service on unaffiliated routes as a nondominant carrier would notify the Commission within 30 days of the commencement of service pursuant to proposed Section 63.25 of the Commission Rules. The Commission should also permit carriers to use the blanket Section 214 process where the Commission has previously found that a foreign affiliate lacks market power in the foreign destination market, where the foreign carrier has no facilities in that market, or has only mobile wireless facilities. In these instances, a conventional application process is not necessary because there is little threat of foreign carrier bottleneck control. PTI also agrees that streamlining – rather than complete forbearance – is appropriate. Until worldwide liberalization becomes a fact, rather than a promise, the Commission should retain the flexibility to condition or revoke certificates or otherwise adjust U.S. regulation to ensure appropriate competitive opportunities exist for U.S. carriers.

II. REGULATION OF PRO FORMA TRANSACTIONS SHOULD BE SUBSTANTIALLY RELAXED

PTI has substantially expanded its services and operations, in part, through FCC-approved acquisitions of other authorized Section 214 carriers. PTI expects that as a result of the recent acquisitions, as well evolving business and corporate needs, it will undergo corporate restructurings that would trigger, prior approval requirements under existing pro forma transaction rules. Primus understands that many other Section 214 international carriers face similar circumstances.

PTI enthusiastically agrees that the Commission should significantly pare back the pro forma transaction requirements. Specifically, PTI agrees that the Commission should eliminate the pro forma transfer prior approval requirements. Moreover, PTI also believes that the Commission need not retain a notice requirement for pro forma assignments. Neither pro forma transfers nor pro forma assignments, by definition, contemplate a substantial change. A pro forma assignment raises no regulatory issues that are not otherwise present and therefore does not warrant additional filing requirements. For example, even under existing Part 63 rules, carriers are free to change their operating names without filing a notice or seeking approval, although many carriers elect to notify the Commission of such changes.

PTI believes that carriers should have full flexibility to reorganize their corporate structure – or its licenses – in a way that makes the most business sense. As long as the transaction remains pro forma in nature, the Commission should forbear from imposing any filing requirements. Although the proposed notice requirement would not delay transactions, it will provide little value to the Commission and become just one more reporting requirement and compliance item to which carriers must attend. (Similarly, PTI believes the Commission should not require "consummation" letters for pro forma assignments.) In the alternative, if the Commission needs updating information on pro forma changes, such information could be made a part of other reports routinely filed, such as the July 31 annual traffic and revenue reports.

PTI also believes that the Commission should clarify that its new policy would apply to (1) assignments between a parent and subsidiary even if intervening subsidiaries exist, (2) assignments and transfers arising out of the reincorporation in a new state, (3) mere name changes, and (4) changes in the form of the business entity (such as change from a partnership, an LLC or LLP to a corporation) as long as the underlying controlling ownership does not change.

In keeping with these amendments, PTI supports the rule modification that would allow a single Section 214 authorization to cover wholly owned subsidiaries. However, the Commission should confirm that such rules would apply even when the subsidiary may be held indirectly through intervening 100%-owned entities, and when the subsidiary uses a completely different operating name. The Commission should also clarify whether separate subsidiaries will continue to be required to maintain separate tariffs or file concurrences in their affiliate's tariffs. PTI recommends that carriers be given the choice to maintain separate tariffs, concur in an affiliate's tariff, or share in an affiliate's tariff by including sections in the tariff setting forth rates and others terms specific to each operating subsidiary's offerings. These changes will lessen the regulatory burden on carriers without adversely affecting Commission policies or consumer interests.

III. USE OF NON-U.S. LICENSED CABLES SHOULD NOT REQUIRE SPECIFIC AUTHORIZATION; SEPARATE SECTION 214 CABLE AUTHORIZATION SHOULD BE ELIMINATED

Primus supports the proposed amendments of Sections 63.18(e)(1) and 63.15(a) of the Commissions rules to allow a carrier to use the facilities of a non-U.S. licensed undersea cable system without explicit authorization from the Commission. Such a change will make it easier for carriers to locate and utilize lower cost routing options by expanding the number of facilities options that carriers have. The rule change will allow U.S. carriers to take full advantage of the total available cable capacity on a worldwide basis.

Primus also supports the proposal to eliminate the Section 214 requirements for new undersea cables. Today, separate Section 214 authority is not needed to support a highly regulated facilities planning or traffic loading regime and the Section 214 authority requirement in this context has outlived its usefulness. This requirement should be eliminated to permit U.S. carriers and consumers to benefit from greater flexibility to meet the demands of the international market.

IV. NEW PROCEDURES SHOULD BE ADOPTED TO PERMIT SWITCHED USE OF PRIVATE LINES AS QUICKLY AS POSSIBLE

PTI supports rule amendments that would allow U.S. carriers to use private lines for switched services as quickly as possible. Under the current standard, switched use of private lines is permitted to a World Trade Organization ("WTO") member country upon a showing that the country either meets an equivalency test or that the settlement rates for that route have dropped to or below the benchmark level for at least 50% of the settled U.S. billed traffic on that route. PTI believes that most routes will eventually qualify for switched use of private lines under the benchmark "prong" of the Commission's test. See new Section 63.16(b)(i). Once a country qualifies under this standard, PTI believes that U.S. carriers should have an immediate opportunity to take advantage of this use of private lines. Accordingly, the Commission should consider allowing authorized carriers to provide switched services over private lines to WTO countries as soon as the settlement rate drops to or below benchmark levels under a presumption -- followed at the carrier's own risk -- that 50% or more of the settled U.S. billed traffic is being terminated at or below the benchmark rates. The Commission would have the opportunity to examine actual traffic levels based on traffic data submitted quarterly by foreign-affiliated carriers and large carriers. In the alternative, carriers should be permitted to use private lines for switched services to a WTO country once the Commission publishes public notice of the filing of a petition for declaratory ruling (submitted pursuant to new Section 63.16) representing that the benchmark "prong" has been met. PTI believes that there would be little need to delay services during a public notice period given that whether the Commission's benchmark standard is met would be readily apparent from public accounting rate filings and traffic data.

V. CONCLUSION

The market for international communications is extremely dynamic and sufficiently competitive to justify reducing the Commission Section 214 regulation. To extent that the Commission can eliminate or streamline burdensome regulation, the Commission should take this positive step forward. Ultimately these changes will benefit consumers by making available them with local cost, higher quality services.

Respectfully Submitted,

PRIMUS TELECOMMUNICATIONS, INC.

By: ______________________

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Dated: August 13, 1998

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